

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GODOX PHOTO EQUIPMENT CO. LTD.,

Plaintiff(s),

v.

PROFOTO AKTIEBOLAG,

Defendant(s).

CASE NO. C25-0502-KKE

ORDER DENYING PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION

Defendant Profoto Aktiebolag (“Profoto”) owns U.S. Patent No. 11,630,375 (“’375 Patent”). Dkt. No. 1-2. Plaintiff Godox Photo Equipment Co. Ltd. (“Godox”) produces photographic equipment and lighting technology, which it sells through distributors and resellers, including through Amazon.com’s online platform. Dkt. No. 1 at ¶¶ 3, 15. Godox alleges that Profoto improperly issued cease-and-desist letters to its distributors and sent infringement notices to Amazon, claiming that certain Godox products infringe the ‘375 Patent. *Id.* ¶¶ 15–44. Godox claims that Profoto’s actions harmed its relationship with its distributors and customers, and resulted in the removal of several Godox products from Amazon’s storefront. *Id.* ¶ 25, Dkt. No. 24 at 11.

Godox seeks a preliminary injunction ordering Profoto to retract its infringement notices and delisting requests to Amazon and Plaintiff’s distributors and resellers. Dkt. Nos. 24, 24-1. Godox also asks the Court to enjoin Profoto from issuing any infringement notices or complaints

1 involving Godox’s accused products. *Id.* The Court held oral argument on Godox’s motion on
2 July 10, 2025. Dkt. No. 45.

3 For the reasons explained further below, the Court denies Godox’s motion for preliminary
4 injunction without prejudice because it has not carried its burden to show a likelihood of success
5 on the merits. In particular, Godox has not shown that Profoto likely acted in bad faith and that its
6 accused products likely do not infringe Profoto’s patent.

7 I. BACKGROUND

8 A. Factual Background

9 Godox is a Chinese company that produces photographic equipment for photographers,
10 videographers, and filmmakers. Dkt. No. 1 ¶¶ 1, 45. Profoto is a Swedish company and assignee
11 and owner of the ‘375 Patent. *Id.* ¶¶ 46–47.

12 The parties’ dispute dates to November 2019, when Profoto first sent Godox an
13 infringement notice in China, alleging infringement of CN201821523510.7, a Chinese counterpart
14 to the ‘375 Patent. *See* Dkt. No. 7-3 ¶ 13. In August 2020, CN201821523510.7 was declared
15 invalid by China’s State Intellectual Property Office. *Id.* ¶¶ 6–7. Profoto sued Godox again in
16 China in November 2023, alleging infringement of another Chinese counterpart to the ‘375 Patent
17 (CN201811086537.9). *Id.* ¶ 14. CN201811086537.9 was also declared invalid, and Profoto
18 withdrew its lawsuit. *Id.* ¶¶ 8–11, 15; Dkt. No. 28-1.

19 In April 2023, the U.S. Patent Trademark office (“USPTO”) issued the ‘375 Patent to
20 Profoto. Dkt. No. 1-2.

21 In early 2024, Godox noticed “isolated takedown incidents” in which Godox products were
22 removed from the Amazon storefront for infringement of the ‘375 Patent. Dkt. No. 24 at 7, Dkt.
23 No. 7-2 ¶ 7. Godox contacted Profoto, arguing that its products did not infringe Profoto’s ‘375
24 Patent. Dkt. No. 7-9. In a letter dated April 12, 2024, Profoto threatened to file suit against Godox

1 unless Godox “immediately ceases and desists its infringement and provides [Profoto] with written
2 confirmation ... within 14 days[.]” Dkt. No. 7-10 at 3.

3 Throughout summer 2024, Godox’s distributors notified Godox that Profoto sent them
4 infringement notices and cease-and-desist letters. Dkt. No. 7-3 ¶ 7. In October 2024, Profoto first
5 initiated an Amazon Patent Evaluation Express Procedure (“APEX”) against a Godox distributor.
6 *Id.* ¶ 20. The APEX proceeding allows participating patent owners to notify Amazon about listed
7 products that potentially infringe on their patents, after which Amazon contacts the accused sellers
8 and asks whether they would like to opt in or out of the APEX program. Dkt. No. 38 ¶ 17. If the
9 seller opts out, then the accused product listings (identified by Amazon Standard Identification
10 Numbers, known as “ASINs”) are removed. *Id.* If the seller opts in, the challenged ASINs remain
11 on Amazon’s storefront unless Amazon’s neutral evaluator finds likely infringement. *Id.* Several
12 Godox distributors opted into the APEX proceeding, and Amazon’s evaluator began reviewing the
13 accused products for infringement of the ‘375 Patent. *Id.* ¶ 8.

14 In November 2024, a third party requested an *ex parte* reexamination of the ‘375 Patent,
15 and the USPTO granted the request. Dkt. No. 7-13 at 1.

16 The first APEX proceeding against a Godox distributor concluded on January 24, 2025.
17 Dkt. No. 37-5. Amazon’s neutral evaluator concluded that Profoto “is likely to be able to prove
18 that [certain Godox products listed on Amazon] fall within the scope of [the ‘375 Patent].” *Id.* at
19 2 (identifying 17 ASINs). Accordingly, those ASINs were removed from Amazon’s storefront.
20 *Id.*

21 On February 14, 2025, Profoto submitted two additional APEX requests based on
22 infringement of the ‘375 Patent, targeting Godox’s V1, V100, and AK-R1 products. Dkt. Nos. 37-
23 6, 37-7. Later that month, Profoto resubmitted an APEX request involving the ASINs related to
24 the V1 and V100 products. Dkt. No. 37 ¶ 16. By March 2025, Amazon informed Profoto that it

1 had been notified of this litigation regarding the ‘375 Patent, and thus, decided to pause the
2 additional APEX proceedings until the Court’s disposition. Dkt. No. 37-8 at 2.

3 During the briefing on Godox’s motion for preliminary injunction, the USPTO released a
4 non-final decision on the *ex parte* reexamination request of the ‘375 Patent first initiated in
5 November 2024. Dkt. No. 40-1. In this June 9, 2025 decision, the USPTO rejected all 24 claims
6 of the ‘375 Patent as anticipated and obvious. *Id.* at 4. Profoto has until August 9, 2025 to respond
7 before the USPTO finalizes the examination and decides whether to cancel the ‘375 Patent. *Id.*

8 **B. Procedural History**

9 Godox filed the complaint on March 20, 2025, seeking a declaration of non-infringement
10 of the ‘375 Patent and alleging tortious interference with prospective business expectancy under
11 Washington law. Dkt. No. 1. On May 5, 2025, Godox moved for an *ex parte* temporary restraining
12 order requiring Profoto to immediately retract its Amazon infringement notices directed at
13 Godox’s distributors and resellers. Dkt. No. 7. Profoto appeared in the case a day later and filed
14 a notice of intent to oppose the motion. Dkt. Nos. 8, 9. After Profoto substantively responded to
15 Godox’s motion, the Court denied the motion without prejudice. Dkt. No. 13. The Court explained
16 that Godox failed to establish the requisite irreparable harm to justify emergency injunctive relief.
17 *Id.* In the order, the Court denied Godox’s motion for expedited discovery and granted its motion
18 for alternative service. *Id.* at 4.

19 On May 28, 2025, Godox moved for a preliminary injunction. Dkt. Nos. 24, 26. After
20 briefing was complete, the Court held a hearing on July 10, 2025. Dkt. Nos. 36, 39, 45. During
21 the motion’s pendency, Profoto filed an answer to the complaint and asserted counterclaims,
22 alleging that Godox’s products directly and indirectly infringe the ‘375 Patent. Dkt. No. 35 at 7–
23 9. The day before the July 10, 2025 preliminary injunction hearing, Godox filed its answer to
24

1 Profoto's counterclaims and asserted two counter-counterclaims, seeking declarations of
2 unenforceability and invalidity of the '375 Patent. Dkt. No. 43 at 30–36.

3 After the hearing, the Court granted Godox's request to provide supplemental briefing on
4 the issue of whether Godox is required to demonstrate that Profoto acted in bad faith in order to
5 obtain a preliminary injunction restricting Profoto's communication of its patent rights and/or to
6 show likelihood of success on the merits of its state law tort claim. Dkt. No. 46. Godox provided
7 supplemental briefing, and further revised its proposed order for a preliminary injunction to reduce
8 the scope of its requested relief. Dkt. No. 48. In its filing, Godox argued that the Court should
9 consider the new "narrowly tailored [proposed preliminary injunction] order" which was submitted
10 "in deference to" the Court's concerns regarding bad faith. Dkt. No. 48 at 6, 7. Profoto also
11 provided supplemental briefing and responded to Godox's amended proposed order, asserting that
12 the Court should strike or disregard Godox's briefing as outside the scope of the Court's order
13 allowing supplemental briefing. Dkt. No. 50 at 6–7. Profoto also argued that even if the Court
14 considered the amended proposed order, Godox's motion would still fail. *Id.* at 7.

15 II. LEGAL STANDARDS

16 A. Preliminary Injunction

17 To obtain a preliminary injunction, Godox must show that (1) it is "likely to succeed on
18 the merits," (2) it is "likely to suffer irreparable harm in the absence of preliminary relief," (3) the
19 "balance of equities tips in [its] favor," and (4) "an injunction is in the public interest." *Winter v.*
20 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). "The burden is always on the movant to show
21 that it is likely to succeed on the merits." *BlephEx, LLC v. Myco Indus., Inc.*, 24 F.4th 1391, 1398
22 (Fed. Cir. 2022); *NOSSK, Inc. v. Fitness Anywhere LLC*, No. 21-cv-08914-BLF, 2022 WL
23 1093662, at *3 (N.D. Cal. Apr. 12, 2022). Therefore, Godox must show likelihood of success on
24 the merits that its products do not infringe the '375 Patent and that Profoto tortiously interfered

1 with its business expectancy with Amazon. *NOSSK*, 2022 WL 1093662, at *4. If Godox can make
 2 such a showing, the burden shifts to Profoto to raise a substantial question concerning Godox’s
 3 case for non-infringement. *Id.*; see *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343,
 4 1350–51 (Fed. Cir. 2001)). Godox must then show that Profoto’s defense “lacks substantial
 5 merit.” *NOSSK*, 2022 WL 1093662, at *4.

6 Godox asks the Court to enjoin Profoto from issuing additional infringement notices and
 7 to retract the notices already sent. Dkt. No. 1 at 17–18. Thus, Godox seeks both prohibitory
 8 and mandatory relief. See *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d
 9 873, 879 (9th Cir. 2009) (“A mandatory injunction orders a responsible party to take action.”
 10 (cleaned up)). “In general, mandatory injunctions ‘are not granted unless extreme or very serious
 11 damage will result and are not issued in doubtful cases or where the injury complained of is capable
 12 of compensation in damages.’” *Doe v. Snyder*, 28 F.4th 103, 106 (9th Cir. 2022) (quoting *Marlyn*,
 13 571 F.3d at 879); *Park Vill. Apartment Tenants Ass’n v. Mortimer Howard Tr.*, 636 F.3d 1150,
 14 1160 (9th Cir. 2011).

15 **B. Patent Non-Infringement**

16 Federal Circuit precedent governs “considerations specific to patent issues.” *Mikohn*
 17 *Gaming Corp. v. Acres Gaming, Inc.*, 165 F.3d 891, 894 (Fed. Cir. 1998). Thus, the Court applies
 18 Federal Circuit law in deciding the issue of Godox’s likelihood of success on the merits of its non-
 19 infringement claim and claim for tortious interference with business expectancy. See *id.*; *Revision*
 20 *Mil., Inc. v. Balboa Mfg. Co.*, 700 F.3d 524, 526 (Fed. Cir. 2012).

21 To analyze the non-infringement claim, the Court must go through a two-step process:
 22 (1) claim construction, in which the Court construes the patent claims to determine their scope and
 23 meaning, and (2) comparison between the properly construed claims and the accused product.
 24 *Myco Indus., Inc. v. BlephEx, LLC*, 955 F.3d 1, 13–14 (Fed. Cir. 2020) (reversing district court’s

award of preliminary injunction because its claim construction analysis was faulty); *Carroll Touch, Inc. v. Electro Mech. Sys., Inc.*, 15 F.3d 1573, 1576 (Fed. Cir. 1993) (explaining two-step analysis). At this early phase, the Court “does not have to conduct a comprehensive and final claim construction[.]” *Shuffle Master, Inc. v. VendingData Corp.*, 163 F. App’x 864, 867 (Fed. Cir. 2005). However, if the question of prevailing on the merits “turns on a contested issue of claim construction, the court must give the claim construction issue the attention necessary to determine the likelihood of success.” *Id.* at 868.

C. Bad Faith Requirement

Godox’s state-law claims for tortious interference with prospective business expectancy are based on Profoto’s submission of infringement notices and complaints to Amazon and Godox’s distributors, and Profoto’s prosecution of the subsequent APEX proceedings before Amazon. Dkt. No. 1 at 17. “[F]ederal patent law preempts state-law tort liability for a patentholder’s good faith conduct in communications asserting infringement of its patent and warning about potential litigation.” *Globetrotter Software, Inc. v. Elan Computer Grp., Inc.*, 362 F.3d 1367, 1374 (Fed. Cir. 2004) (citing *Zenith Elecs. Corp. v. Exzec, Inc.*, 182 F.3d 1340, 1355 (Fed. Cir. 1999)). In other words, to show likelihood of success on its tortious interference claim, Godox must show that Profoto likely acted in bad faith when it sent infringement notices to Amazon and Godox’s distributors even though bad faith is not otherwise an element of this state-law claim. *Id.*

Godox must also show bad faith to obtain an injunction on its federal claim of non-infringement. “This requirement of a showing of bad faith as prerequisite to applying state tort law to speech about infringement rests partly on First Amendment principles.” *Lite-Netics, LLC v. Nu Tsai Cap. LLC*, 60 F.4th 1335, 1343 (Fed. Cir. 2023). “The First Amendment principles are particularly significant when an injunction against speech is at issue.” *Id.* Therefore, because Godox’s request for injunctive relief on its non-infringement claim implicates Profoto’s

communications asserting infringement of its patent, in order to prevail, Godox must demonstrate Profoto's bad faith in support of this claim as well. *See Myco*, 955 F.3d at 10–11; *Mikohn Gaming*, 165 F.3d at 898 (vacating injunction because there was a “negligible likelihood of success in showing bad faith”); *Mallinckrodt, Inc. v. Medipart, Inc.*, 976 F.2d 700, 709–10 (Fed. Cir. 1992), *abrogated on other grounds by Impression Prods., Inc. v. Lexmark Int’l, Inc.*, 581 U.S. 360 (2017).

III. ANALYSIS

A. The Court Has Jurisdiction.

The Court possesses subject matter jurisdiction under 28 U.S.C. § 1331 because Godox asserts federal patent claims. The Court also has supplemental jurisdiction over Godox's Washington state law tort claim because it forms “part of the same case or controversy” as the federal patent claims. 28 U.S.C. § 1367(a).

As for personal jurisdiction, Profoto has withdrawn its previous objection and submits to this Court's specific jurisdiction. Dkt. No. 36 at 6 n.1. Indeed, the Court has specific jurisdiction over Profoto because (1) Godox's claim arises under federal law, (2) Profoto is not subject to general jurisdiction in any forum in the United States, and (3) the exercise of jurisdiction over Profoto comports with due process. *See Synthes (U.S.A.) v. G.M. Dos Reis Jr. Ind. Com de Equip. Medico*, 563 F.3d 1285, 1299 (Fed. Cir. 2009) (applying the five due process factors under *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985), to a foreign defendant).

B. Godox Fails to Show a Likelihood of Success on the Merits.

1. Bad faith is a prerequisite to Godox's preliminary injunction request and state-law claim.

To obtain a preliminary injunction, Godox must demonstrate that Profoto acted in bad faith in sending cease-and-desist letters to Godox's distributors and infringement notices to Amazon. As noted above, this showing is required to establish that Godox's state-law claim is not preempted

1 by federal law and because Godox seeks injunctive relief that implicates Profoto's First
2 Amendment rights. *See Globetrotter*, 362 F.3d at 1374; *Myco*, 955 F.3d at 10–11.

3 When confronted with this authority at the hearing, Godox rightly recognized in its
4 supplemental brief that bad faith is an essential element to the relief requested on both of its claims.
5 Dkt. No 48 at 3. But Godox did not plead or provide any evidence of bad faith. To get around
6 this problem, in its supplemental brief, Godox amends its requested injunction via a revised
7 proposed order. Dkt. No. 48-1. Specifically, Godox's amended proposed order abandons its prior
8 request to prevent Profoto from sending additional infringement notices, and instead asks the Court
9 to require Profoto to also send a copy of this Court's order (presumably granting a declaratory
10 judgment in Godox's favor) along with every infringement notice. *Id.* at 2. As detailed below,
11 Godox's amended request for relief does not resolve the fatal flaws in its motion.

12 Although Godox characterizes its amended order as a “narrow” request for relief, it still
13 seeks to *compel* speech by forcing Profoto to send a court order to third parties without the requisite
14 showing of bad faith. *Bee Warehouse, LLC v. Blazer*, 671 F. Supp. 3d 1347, 1354 (N.D. Ala.
15 2023) (finding a case “atypical” and denying request for injunctive relief because plaintiff asked
16 the court to “restrict and compel speech” without a showing of bad faith). Godox does not explain
17 how its revised request constitutes compelled speech any less than its original proposed order.
18 Instead, Godox relies on *Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio*,
19 471 U.S. 626 (1985), to argue that Godox's amended proposed relief “takes the form of a narrowly
20 tailored corrective disclosure” and constitutes commercial speech. Dkt. No. 48 at 6. In Godox's
21 view, its new request for relief is subject to a deferential standard, and a showing of bad faith is
22 not required. *Id.*

23 Godox's argument is unpersuasive, and its cited authority inapposite. *Zauderer* clarified
24 the bounds of commercial speech by addressing whether an attorney may be disciplined for

1 soliciting legal business through printed advertising containing nondeceptive information or
2 illustrations. 471 U.S. at 637. It did not discuss the value of a patentee’s right to enforce its patent
3 and to notify alleged infringers, let alone consider extending this deferential standard to
4 communications involving patent infringement. In fact, the *Zauderer* Court noted that “[i]n some
5 instances compulsion to speak may be as violative of the First Amendment as prohibitions on
6 speech.” *Id.* at 650. “[I]nvolutionary affirmation could be commanded only on even more
7 immediate and urgent grounds than silence.” *Id.* (quoting *W. Virginia State Bd. of Educ. v.*
8 *Barnette*, 319 U.S. 624, 633 (1943)). Godox’s other cited authority is likewise inapposite because
9 it does not apply the standard of review for commercial speech to the patent context. *See, e.g.,*
10 *Ariix, LLC v. NutriSearch Corp.*, 985 F.3d 1107 (9th Cir. 2021) (finding a product review
11 constituted commercial speech); *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024) (examining First
12 Amendment challenges to Florida and Texas laws that regulated social media platforms); *Nat’l*
13 *Inst. of Fam. & Life Advocs. v. Becerra*, 585 U.S. 755 (2018) (examining a challenge to a California
14 law requiring licensed pregnancy-related clinics to disseminate notices stating the existence of
15 publicly funded family-planning services that included abortions).

16 It goes without saying that Profoto holds commercial motivations for alleging
17 infringement. But Profoto’s economic incentives do not change the rule that a patentee’s
18 communications enforcing its patent rights may only be enjoined upon a showing of bad faith. *See*
19 *Mallinckrodt*, 976 F.2d at 710 (“Although Medipart argues that Mallinckrodt is motivated by its
20 commercial interest ... and we have no doubt that all these parties’ motivations are commercial,
21 Mallinckrodt’s position that infringement exists was not asserted to be in bad faith.”). Therefore,
22 to decide whether a preliminary injunction should issue here, the Court must consider whether
23 Godox has shown that Profoto acted in bad faith.

1 2. Godox has not shown bad faith.

2 To show bad faith, a plaintiff must establish that the assertion of infringement was both
3 (1) “objectively baseless” and (2) made in “subjective bad faith.” *Globetrotter*, 362 F.3d at 1375–
4 76. Objective baselessness means that no reasonable litigant could realistically expect to prevail
5 in a dispute over infringement of the patent. *Judkins v. HT Window Fashion Corp.*, 529 F.3d 1334,
6 1338 (Fed. Cir. 2008). Subjective bad faith looks to “whether the baseless lawsuit conceals ‘an
7 attempt to interfere directly with the business relationships of a competitor.’” *Nuance Commc’ns,*
8 *Inc. v. MModal LLC*, No. 17-1484-MN-SRF, 2018 WL 6804488, at *3 (D. Del. Dec. 27, 2018)
9 (quoting *Prof’l Real Estate Invs., Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49, 60–61
10 (1993)), *report and recommendation adopted*, No. 17-1484 (MN), 2019 WL 181322 (D. Del. Jan.
11 11, 2019). If the plaintiff fails to satisfy the objective prong, then the Court’s analysis may end
12 there. *Globetrotter*, 362 F.3d at 1376 n.8 (“Only if the challenged litigation is objectively meritless
13 may a court examine the litigant’s subjective motivation.”) (quoting *Prof’l Real Estate Invs.*, 508
14 U.S. at 60); *GP Indus., Inc. v. Eran Indus., Inc.*, 500 F.3d 1369, 1375 (Fed. Cir. 2007) (“Subjective
15 considerations of bad faith are irrelevant if the assertions are not objectively baseless.”).

16 Based on the evidentiary record before the Court, Godox has not shown that Profoto’s
17 infringement allegations were objectively baseless. Godox implies that Profoto knew that the ‘375
18 Patent was vulnerable because its Chinese counterparts have been invalidated. Dkt. No. 24 at 7,
19 21 n.4. But the Chinese infringement actions arose in a different language and legal system.
20 Therefore, this fact is irrelevant to the Court’s analysis. *See Lindemann Maschinenfabrik GMBH*
21 *v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1458 n.2 (Fed. Cir. 1984); *see also* Dkt. No. 51 at 41–
22 42 (“[T]he Chinese patents are not the basis of Profoto’s letters to the resellers. The Chinese
23 patents are not the basis of the APEX proceedings. The U.S. patent is.”). Other facts also weigh
24 against a finding of bad faith. While not dispositive, after the first APEX proceeding, Amazon’s

1 patent evaluator found in favor of Profoto. Dkt. No. 37-5. Additionally, Profoto began sending
2 cease-and-desist letters to Godox's distributors in early 2024, months before the USPTO granted
3 an *ex parte* request for reexamination. Dkt. No. 24 at 7, Dkt. No. 7-2 ¶ 7. And though Profoto
4 initiated other APEX proceedings after the USPTO began its reexamination, it only did so after
5 the first APEX proceeding was resolved in its favor. Dkt. Nos. 37-6, 37-7. The January 2025
6 APEX decision that some of Godox's products likely infringed the '375 Patent would have
7 bolstered a reasonable litigant's belief that the '375 Patent was valid and enforceable. *Bee*
8 *Warehouse*, 671 F. Supp. 3d at 1365 (discussing Amazon's APEX process in the context of
9 objective bad faith).

10 Therefore, on the record currently before the Court, and without an evidentiary hearing or
11 complete claim construction of the '375 Patent, the Court cannot find that Profoto's infringement
12 allegations were objectively baseless. Because Godox fails to meet this threshold, the Court need
13 not analyze whether Profoto acted in subjective bad faith. *GP Indus.*, 500 F.3d at 1375. As a
14 result, Godox fails to demonstrate a likelihood of success on the merits as to its tortious
15 interference claim or to show entitlement to an injunction restricting (or compelling) Profoto's
16 patent communications.

17 3. Godox has not shown that its products likely do not infringe the '375 Patent.

18 Similarly, Godox fails to demonstrate likelihood of success on the merits of its non-
19 infringement claim because Godox does not provide an adequate basis for the Court to construe
20 the claims and compare its accused products to the '375 Patent. Godox does not dispute that claim
21 construction is necessary, and rather, claims that it "spent several pages explaining claim
22 construction principles[.]" Dkt. No. 39 at 13. However, the record is insufficient at this stage to
23 carry Godox's burden.
24

1 First, Godox fails to offer terms for construction or “attribute any meaning to the terms of
2 the claim” so that the Court can understand Godox’s claim construction position—the necessary
3 first step to the Court’s infringement analysis. *Millipore Corp. v. W.L. Gore & Assocs., Inc.*, No.
4 11-1453 (ES), 2011 WL 5513193, at *8–11 (D.N.J. Nov. 9, 2011). Here, Godox argues that the
5 following claims from the ‘375 Patent are missing from its products: “fastening element[,]” “flash
6 forming element[,]” “lens element[,]” “flash housing fastening element[,]” “ferromagnetic
7 material[,]” and “lens element” with “substantially circular cross-section”. Dkt. No. 24 at 13–18,
8 Dkt. No. 24-1 at 2–3 (proposed preliminary injunction order). Godox argues that the “plain and
9 ordinary meaning” of these claims should be applied here, and therefore, that specific construction
10 is unnecessary. Dkt. No. 39 at 14. For example, Godox asserts, without explanation, that the
11 H200R products do not include a “lens element.” Dkt. No. 24 at 14. It provides a deconstructed
12 view of the H200R product, which includes a “diffuser[.]” *Id.* Godox does not explain why the
13 component it identifies as a “diffuser” does not fall within the scope of the meaning of “lens
14 element[.]” *Id.* The patent specification states that the lens element is “arranged to let at least part
15 of the generated flash out of the flash housing so as to obtain a flash light[.]” Dkt. No. 1-2 at 16.
16 The patent specification also requires the flash light shaping tool to be arranged so that “a part of
17 the beam lobe emit[s] through the lens element.” *Id.* at 12. But it is unclear, based on this record,
18 whether the “lens element” means a completely transparent surface, or can include opaque or semi-
19 transparent components that change the light. This is but one of many issues that need further
20 development before the Court can adjudicate the infringement claims.

21 To be clear, Godox’s reliance on a “plain and ordinary meaning” of the terms is not in itself
22 problematic. That said, the standard is the plain and ordinary meaning as understood by one of
23 ordinary skill in the art. *Dow Chem. Co. v. Sumitomo Chem. Co.*, 257 F.3d 1364, 1372–73 (Fed.
24 Cir. 2001). Expert testimony is not always required, but the Court requires “technological and

1 temporal context to enable the court to ascertain the meaning of the claim to one of ordinary skill
2 in the art at the time of invention.” *V-Formation, Inc. v. Benetton Grp. SpA*, 401 F.3d 1307, 1310
3 (Fed. Cir. 2005). Here, the ‘375 Patent describes the technical field as relating to the photography
4 field. Dkt. No. 1-2 at 11.

5 The Federal Circuit has recognized that “[i]n some cases, the ordinary meaning of claim
6 language ... may be readily apparent even to lay judges, and claim construction in such cases
7 involves little more than the application of the widely accepted meaning of commonly understood
8 words.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc). However, in
9 many cases, the meaning of a claim term as understood by persons of skill in the art is not readily
10 apparent. *Id.*; see also *O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1361
11 (Fed. Cir. 2008) (“A determination that a claim term ‘needs no construction’ or has the ‘plain and
12 ordinary meaning’ may be inadequate when a term has more than one ‘ordinary’ meaning or when
13 reliance on a term’s ‘ordinary’ meaning does not resolve the parties’ dispute.”). Here, while not
14 all the terms used are highly technical or complex, the Court nonetheless finds that further context
15 is needed to understand what a person with ordinary skill in the art would understand these terms
16 to mean.

17 Godox points out that Profoto likewise does not identify any term that requires a specific
18 construction other than plain and ordinary meaning. Dkt. No. 39 at 14. But it is Godox’s burden
19 to show a likelihood of success on the merits, and that “the facts and law clearly favor” it. *Garcia*
20 *v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (quoting *Stanley v. Univ. of S. Cal.*, 13 F.3d
21 1313, 1320 (9th Cir. 1994). Therefore, this lack of analysis of the patent specification and
22 meanings of the claim terms weighs against issuing an injunction. See, e.g., *DocuSign, Inc. v.*
23 *Sertifi, Inc.*, 468 F. Supp. 2d 1305, 1308 (W.D. Wash. 2006) (denying a preliminary injunction
24 motion where movant “provided the court with no legal argument or analysis on which to base a

1 decision on claim construction[,]” rendering the Court “unable to even begin the process of claim
2 construction on this record”); *Millipore*, 2011 WL 5513193, at *9–11 (finding failure to show
3 likelihood of success on the merits because movant failed to offer terms for construction or
4 attribute terms for construction, thus preventing the court from determining whether infringement
5 occurred); *Fair Isaac Corp. v. Int’l Business Machs. Corp.*, No. 05-2081 (DWF/SRN), 2006 WL
6 1283852, at *7 (D. Minn. May 9, 2006) (“The Court finds that in light of the incomplete claim
7 construction and infringement analysis provided to the Court, Fair Isaac has not met its
8 burden....”). *C.f. Koninklijke Philips Elecs. N.V. v. Seoul Semiconductor Co., Ltd.*, No. SACV 11-
9 0356-AG(RNBx), 2011 WL 13228032, at *3–4 (C.D. Cal. Nov. 14, 2011) (finding that the expert
10 declaration supporting patentee’s infringement claims contained “extensive analysis” of the
11 accused products which allowed the court to proceed with an infringement analysis).

12 Godox also fails to sufficiently construe the terms using the ‘375 Patent’s prosecution
13 history. “Among the intrinsic evidence, the specification is always highly relevant to the claim
14 construction analysis—it is the single best guide to the meaning of a disputed term, and is usually
15 dispositive. In addition to the specification, the court will also consider the prosecution history.”
16 *Spellbound Dev. Grp., Inc. v. Pac. Handy Cutter*, No. SACV 09-00951 DOC(ANx), 2011 WL
17 5554312, at *8 (C.D. Cal. Nov. 14, 2011) (internal citations omitted).

18 While Godox’s motion discusses prosecution history, it primarily does so in the context of
19 prosecution history estoppel. Dkt. No. 24 at 17–20. In other words, it again skips the first step of
20 infringement analysis (interpreting the claims to decide the scope and meaning) and proceeds
21 directly to the second step (comparing the devices to determine infringement). Additionally,
22 Godox’s reference to the prosecution history is with regards to the *orientation* of the “fastening
23 element” and the “lens element.” *Id.* at 17 (arguing that Godox’s product is distinguishable
24 because the fastening element is “flush with” the lens surface, which is different from the ‘375

1 Patent). Godox does not use prosecution history to explain the meaning of “lens element” or
2 “fastening element” or several other claim terms Godox contends are absent from its products. *See*
3 *id.* at 17–20.

4 Second, Godox’s sparse analysis of the patent specification and prosecution history also
5 severely hampers the Court’s ability to proceed with the next infringement analysis step:
6 comparing Godox’s products to the ‘375 Patent to determine if there is literal infringement or
7 infringement under the doctrine of equivalents. While the Court may engage in rolling claim
8 interpretation in deciding a preliminary injunction motion, it “declines to undertake a *sua sponte*
9 analysis of the specification—without any direction from the parties—in order to construe the
10 claims[.]” *Docusign*, 468 F. Supp. 2d at 1308. As a result, at this juncture on this record, Godox
11 cannot show likelihood of success on its non-infringement claim.

12 “Likelihood of success on the merits is the most important factor; if a movant fails to meet
13 this threshold inquiry, we need not consider the other factors.” *Edge v. City of Everett*, 929 F.3d
14 657, 663 (9th Cir. 2019) (quoting *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018)).
15 Therefore, because Godox fails to show that it is likely to succeed on any claim asserted in its
16 complaint, the Court will end its analysis here.

17 4. Invalidity is not properly before the Court for the purposes of the preliminary injunction
18 motion.

19 In its reply brief, and at the hearing, Godox urged the Court to find that it was likely to
20 succeed on its claims based on the invalidity of the ‘375 Patent. Dkt. No. 39 at 10–12. While both
21 parties briefly discuss invalidity in the motion briefing, Godox did not plead an invalidity claim.
22 Dkt. No. 1. Rather, the day before the hearing, Godox asserted an invalidity counter-counterclaim
23 against Profoto, but otherwise did not amend the complaint that provides the basis for its
24

1 preliminary injunction motion. Dkt. No. 43 at 36–37. Profoto has not yet filed a responsive
2 pleading to the invalidity counter-counterclaim.

3 At the hearing, Godox argued that the Court may nonetheless adjudicate its counter-
4 counterclaim for invalidity in deciding the preliminary injunction motion under *Medcursor Inc. v.*
5 *Shenzen KLM Internet Trading Co., LTD.*, 543 F. Supp. 3d 866 (C.D. Cal. Jun. 10, 2021). Dkt.
6 No. 51 at 5–6. The *Medcursor* court held that while a preliminary injunction may only be awarded
7 upon a clear showing of evidence that supports the *Winter* factors, “[t]his ‘clear showing’ requires
8 factual support beyond the allegations of the complaint, but the evidence need not strictly comply
9 with the Federal Rules of Evidence.” 543 F. Supp. 3d at 870 (quoting *CI Games S.A. v. Destination*
10 *Films*, No. 2:16-cv-05719 SVW JC, 2016 WL 9185391, at *11 (C.D. Cal. Oct. 25, 2016)).

11 Godox misses the point. The question here is not whether the Court may consider factual
12 support that does not strictly comply with the Rules of Evidence. Rather, the Court’s concern lies
13 in whether it may issue an injunction based on theories outside the scope of the operative
14 complaint, and not fully briefed in Godox’s motion. Indeed, neither Godox’s initial nor
15 supplemental proposed preliminary injunction orders include any finding of invalidity. Dkt. No.
16 24-1. Put differently, Godox asks the Court to effectively conclude that the accused products are
17 non-infringing based on patent invalidity that it did not allege. Godox does not offer—and the
18 Court is unaware of—any authority that permits the Court to issue an injunction based on
19 unpleaded claims. Indeed, the Court must “narrowly tailor[]” any injunctive relief to remedy the
20 specific harm alleged. *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1142 (9th Cir. 2009). “An
21 overbroad injunction is an abuse of discretion.” *Id.* at 1140.

22 Finally, even if Godox had pleaded and fully argued invalidity, because it fails to show bad
23 faith, its request for an injunction would still fail for the reasons set forth above. While Godox
24 may ultimately prevail on establishing invalidity of the ‘375 Patent and/or non-infringement, at

1 this juncture and on this record, it has not made a showing sufficient to warrant extraordinary
2 preliminary injunctive relief.

3 **IV. CONCLUSION**

4 The Court DENIES without prejudice Godox's motion for preliminary injunction (Dkt.
5 Nos. 24, 26) because Godox fails to show likelihood of success on the merits.

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7 Dated this 31st day of July, 2025.

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Kimberly K. Evanson
United States District Judge